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Paper No.

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OFFICE OF PETITIONS

In re Application of :
Wang et al. : DECISION ON PETITION
Application No. 10/642,352 :
Deposited: August 15, 2003 :
Attorney Docket No. SYMXP011 :

This is a decision on the "PETITION TO ESTABLISH PRIOR RECEIPT IN PTO OF PAGES OF SPECIFICATION UNDER 37 C.F.R. 1.53(e)," filed July 27, 2004. Applicants petition to include page 1 of the specification in the originally filed patent application accorded a filing date of August 15, 2003.

Application papers in the above-identified application were deposited on August 15, 2003. However, on December 8, 2003, the Initial Patent Examination Division mailed applicant a "Notice to File Missing Parts of Nonprovisional Application." Applicants were notified that the application papers had been accorded a filing date; however, page 1 of the specification appeared to have been omitted from the application.

In response, applicants filed the instant petition. Applicants assert that all pages of the application were filed with the USPTO on August 15, 2003. In support thereof, applicants submit a copy of their return postcard receipt. In addition, applicants supplied a copy of missing page 1.

A postcard receipt, which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received by the Office on August 15, 2003; 2) it specifically identifies the items being filed, including

"Specification, 45 pages" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the 45 pages of specification, were filed on August 15, 2003.

The application papers already considered received in the Office on August 15, 2003, were reviewed along with the missing page of specification submitted on petition. These papers together constitute the items described on the postcard receipt as "Specification, 45 pages." Petitioner has shown that p. 1 of the specification was among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is GRANTED.

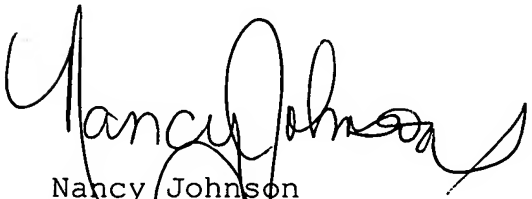
Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, the fee though authorized will not be charged to Petitioner's Deposit Account. (It is noted that, in association with the other petition filed July 27, 2004, a request to refund petition fees totalling \$240 was forwarded to the Office of Finance on April 18, 2005)

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

· further processing with a filing date of August 15, 2003, using the application papers received in the Office on that date and the missing page of specification, p. 1, re-supplied on petition filed July 27, 2004.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions